

House File 2456 - Introduced

HOUSE FILE _____
BY HUSER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the payment of costs for the alteration,
2 movement, or relocation of utility facilities necessitated by
3 a highway construction project.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5834YH 82
6 dea/nh/5

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1 1 Section 1. Section 306.46, Code 2007, is amended to read
1 2 as follows:

1 3 306.46 PUBLIC UTILITY FACILITIES == PUBLIC ROAD
1 4 RIGHTS-OF-WAY == FACILITY RELOCATION COSTS.

1 5 1. A public utility may construct, operate, repair, or
1 6 maintain its utility facilities within a public road
1 7 right-of-way. The location of new utility facilities shall
1 8 comply with section 318.9. A utility facility shall not be
1 9 constructed or installed in a manner that causes interference
1 10 with public use of the road.

1 11 2. Whenever a utility facility which is owned or operated
1 12 by a public utility and located in, over, along, or under a
1 13 highway is required to be altered, moved, or relocated because
1 14 of the construction of a highway project, the cost of the
1 15 alteration, movement, or relocation and the expense of
1 16 acquiring lands, rights or interests in land, or any other
1 17 rights acquired to accomplish such alteration, movement, or
1 18 relocation shall be paid by the agency having jurisdiction and
1 19 control of the highway.

1 20 ~~2- 3.~~ For purposes of this section, "public utility" the
1 21 following definitions apply:

1 22 a. "Cost of the alteration, movement, or relocation" means
1 23 the entire amount paid by the public utility which is properly
1 24 attributable to the alteration, movement, or relocation of the
1 25 facility, minus any increase in value of the new facility and
1 26 any salvage value derived from the old facility.

1 27 b. "Public utility" means a public utility as defined in
1 28 section 476.1, and shall also include waterworks, municipally
1 29 owned waterworks, joint water utilities, rural water districts
1 30 incorporated under chapter 357A or chapter 504, and
1 31 cooperative water associations. ~~For the purposes of this~~
1 32 section, "utility facilities"

1 33 c. "Utility facility" means any cables, conduits cable,
1 34 conduit, wire, pipe, casing pipe, supporting poles, guys pole,
1 35 guy, and or other material and or equipment utilized for the
2 1 furnishing of electric, gas, communications, water, or sewer
2 2 service.

2 3 ~~3- 4.~~ This section shall not impair or interfere with a
2 4 city's authority to grant, amend, extend, or renew a franchise
2 5 as provided in section 364.2, and shall not impair or
2 6 interfere with a city's existing general police powers to
2 7 control the use of its right-of-way.

2 8 Sec. 2. Section 306A.10, Code 2007, is amended by striking
2 9 the section and inserting in lieu thereof the following:

2 10 306A.10 ALTERATION, MOVEMENT, OR RELOCATION OF UTILITY
2 11 FACILITIES == COSTS.

2 12 1. Whenever a utility facility located in, over, along, or
2 13 under a highway is required to be altered, moved, or relocated
2 14 because of the construction of a highway project on a route of
2 15 the national system of interstate and defense highways,
2 16 including extensions within cities, or on streets or highways
2 17 resulting from interstate substitutions in a qualified
2 18 metropolitan area under 23 U.S.C. chapter 23, the utility
2 19 owning or operating the facility shall alter, remove, or

2 20 relocate the facility in accordance with statutory notice.
2 21 The cost of the alteration, movement, or relocation and the
2 22 expense of acquiring lands, rights or interests in land, or
2 23 any other rights acquired to accomplish the alteration,
2 24 movement, or relocation, shall be paid by the agency having
2 25 jurisdiction and control of the highway and shall be paid from
2 26 participating federal aid or other funds.

2 27 2. For purposes of this section, "cost of the alteration,
2 28 movement, or relocation" means the entire amount paid by the
2 29 utility which is properly attributable to the alteration,
2 30 movement, or relocation of the facility, minus any increase in
2 31 value of the new facility and any salvage value derived from
2 32 the old facility.

2 33 Sec. 3. Sections 306A.11 and 306A.12, Code 2007, are
2 34 repealed.

2 35 EXPLANATION

3 1 This bill addresses the costs incurred by a utility for the
3 2 alteration, movement, or relocation of a facility due to a
3 3 highway construction project.

3 4 Current law provides for payment of the cost of removal or
3 5 relocation of a utility facility for projects on highways that
3 6 are on routes of the national system of interstate and defense
3 7 highways or highways resulting from interstate substitutions
3 8 in a qualified metropolitan area. The costs are ascertained
3 9 by the highway authority or through condemnation proceedings
3 10 and may be paid from participating federal or other funds.
3 11 The bill repeals a provision in current law that prohibits
3 12 reimbursement for utility facility relocation or removal
3 13 unless federal aid is available in an amount equal to 85
3 14 percent of the reimbursement payment. Under the bill, the
3 15 utility's actual costs are to be reimbursed, and reimbursement
3 16 from federal funds is required for such projects if federal
3 17 aid is available. For purposes of Code provisions relating to
3 18 federal aid highways, "utility" includes privately, publicly,
3 19 municipally, or cooperatively owned utilities.

3 20 The bill also requires that the costs of alteration,
3 21 movement, or removal of a utility facility necessitated by any
3 22 highway construction project under state, county, or municipal
3 23 jurisdiction and the expense of acquiring lands or rights or
3 24 interests in land or any other rights acquired to accomplish
3 25 the alteration, movement, or relocation, shall be paid by the
3 26 agency having jurisdiction and control of the highway. This
3 27 provision applies to public utilities entitled under current
3 28 law to locate utility facilities within a public road
3 29 right-of-way.

3 30 The bill defines "cost of the alteration, movement, or
3 31 relocation" to mean the entire amount paid by the utility
3 32 which is properly attributable to the alteration, movement, or
3 33 relocation of the facility, minus any increase in value of the
3 34 new facility and any salvage value derived from the old
3 35 facility.

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